Supreme Court
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No.

IN THE

SUPREME COURT OF THE UNITED STATES

David M. Shapiro

Petitioner

v.

S. Lark Ingram

Respondent

On Petition For Writ Of Certiorari
To The U.S. Court Of Appeals For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Is a man still entitled to the "Right" of "Trial by Jury," and is it still true that such a Jury Trial could hear all cases not heard by Jury?... Can a judge ignore these "Rights"?

In light of the "Right" to "Trial by Jury" and 'Gideon v. Wainwright', 372 U.S. 335, (1963), does the Court, when there is a "Demand For Jury Trial" already filed in a civil case which the Court is ignoring, show true prejudice to an indigent Pro Se Defendant by not immediately assigning counsel when the Judge allows Criminal Allegations into the case and denies "Immediate and Complete" investigation of those Criminal Allegations at Defense's request?

Is such an indigent Pro Se Defendant, whose "Demand for Jury Trial" is being ignored by the Court, entitled to the same Defense a Judge would get through the State Attorney General's Office, considering 'Gideon v. Wainwright', 372 U.S. 335, (1963) and ignoring funds allocated for indigent defense, just as a Judge ignores the "Right" to "Trial by Jury" and immediately assigning Counsel as per 'Gideon v. Wainwright', 372 U.S. 335, (1963)?

When a Judge: who ignored the "Right" to "Trial by Jury"; 'Gideon v. Wainwright', 372 U.S. 335, (1963); did not immediately assign Counsel to an indigent Pro Se Defendant; and was brought into the Federal Courts for Denial of Rights...wants "Attorney Fees" for the State Attorney General's Office that represents her, should the State receive compensation for denying a man's "Constitutional Rights"?

Considering the certain inalienable "Rights" to Life, Liberty, and the Pursuit of Happiness, declared self-evident truth by our forefathers, is it the right of man to have family

unmolested by State especially when there is a contract (Divorce Settlement Agreement) in place for which more than $10,000 "Consideration" was given in "Good Faith" and which the Court approved therefore which the Court said it would enforce in accordance with Federal Laws, State Laws, and Federal / State Guidelines?

Is a man entitled to have the Court immediately consider a motion to "Dismiss as Frivolous" if the other party or their Counsel does not appear in a case called in open court, especially when there is no proof of a complaining party?

Was the Case before the Court a civil case or a criminal case considering Plaintiff's Attorney was titled "Counsel on behalf of State" in the first transcript and Criminal Allegations were allowed into the case in the second transcript?

Is it proper for a District Attorney to blackmail a Federal Employee... "If you were a normal person, I'd throw the case out, but you're a federal employee... You should have known better. If you don't take the deal, I'll prosecute you to the fullest extent of the law."? Is it within 'The Constitution of the United States of America' and is it legal to prosecute an individual differently just because he is a federal employee? If Defense Counsel suggested federal employee take the deal, did the federal employee have adequate Defense Counsel?

LIST OF PARTIES

The Petitioner is David M. Shapiro.

The Respondent is S. Lark Ingram.

CORPORATE DISCLOSURE STATEMENT

None

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PETITION FOR WRIT OF CERTIORARI

David M. Shapiro, Pro Se, as Counsel of Record, respectfully petitions this Court for a Writ of Certiorari to review the judgement of the U.S. Court of Appeals for the Eleventh Circuit. The court of appeals, En Banc denied, relied on its previous decision. It is reprinted in the Appendix at App.3 through App.9.

The documents of the U.S. District Court for the Northern District of Georgia, Atlanta Division, are also available online at pacer.uscourts.gov (call 1-800-676-6856 for more info.).

This Petitioner's request, as then Plaintiff, to proceed "in forma pauperis" was: granted pursuant to 28 U.S.C. § 1915(a) before the District Court and filed on October 21, 2005. It is reprinted in the Appendix at App.10.

David M. Shapiro is a Federal Employee under the Civil Service Retirement System receiving Civil Service Disability until age 60 when his Civil Service Annuity will start.

The court of appeals opinion is in conflict with the actual record. The denial of justice has placed great hardship on the "Petitioner." Certiorari should be granted.

OPINIONS BELOW

The panel decision of the court is unpublished, but it is reprinted in the Appendix at App.3 through App.9.

The decision of the Eleventh Circuit denying rehearing en banc is unpublished and unreported. It is reprinted in the Appendix at App.2.

JURISDICTION

The panel decision of the court of appeals was entered on October 25, 2006. The decision of the court of appeals for rehearing en banc was entered on December 22, 2006. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT UNDER RULE 29.4(b)

This proceeding questions the constitutionality of a Court denying a man's Constitutional Rights.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED IN THIS CASE

1) 'U.S. Const., Art. I, § 9(3)' provides: No Bill of Attainder or ex post facto Law shall be passed.

2) 'U.S. Const., Art. I, § 10(1)' provides: No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

3) 'U.S. Const., Art. IV, § 1' provides: Full Faith and Credit shall be given in each State to the public Acts, Records, and

judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

4) 'U.S. Const., Art. IV, § 2(1)' provides: The Citizens of each State Shall be entitled to all Privileges and Immunities of Citizens in the several States.

5) 'U.S. Const. Amend. I' provides: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

6) 'U.S. Const. Amend. IV' provides: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

7) 'U.S. Const. Amend. V' provides: No person shall be held to answer for a capitol, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without compensation.

8) 'U.S. Const. Amend. VI' provides: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

9) 'U.S. Const. Amend. VII' provides: In Suits at common law, where the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

10) 'U.S. Const. Amend. VIII' provides: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted..

11) 'U.S. Const. Amend. IX' provides: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

12) 'U.S. Const. Amend. X' provides: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people.

13) 'U.S. Const. Amend. XIV, § 1' provides: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any

person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Can a man's right's be arbitrarily ignored ... (see: "Constitutional And Statutory Provisions Involved In This Case," Pages 2 to 5, Items 4, 5, 6, 7, 8, 9, 10, 11, 12, 13). Read the transcripts.. no one has been found in "Contempt of Court"; so how can the Federal Courts assume such?

QUESTIONS IN A MAN'S JOURNEY FOR JUSTICE

1) Is a man to be trifled with by the Court with no justifiable reason?

2) *** Is a man still entitled to the right of "trial by jury," and Is it not true that such a Jury Trial could hear all cases not heard by Jury?

3) Is a "Court Of Record" really a "Court Of Record" if it fails to take down and record transcript material?

4) *** Is a man entitled to have the Court immediately consider a motion to "Dismiss As Frivolous" if the other party or their Counsel does not appear?

5) *** Does the Court show prejudice or differential treatment when it denies the right to: immediately consider a motion to "Dismiss As Frivolous" a case called in open court "because the other party or their Counsel does not appear at that hearing"? Yet, although their party nor their Counsel

appears for the next four hearings, but at that fifth hearing the Judge calls the case "Dismissed Without Prejudice" because Counsel for the other party filed a handwritten request with the Clerk of the Court's Office earlier that day?... Is this not prejudice or differential treatment? Was there proof of a complaining party in the courtroom?

6) *** Does a Court show prejudice or differential treatment when it allows criminal charges into a civil case?

7) *** Does the Court show additional prejudice or differential treatment when it fails to appoint counsel immediately, therefore ignoring 'Gideon v. Wainwright', 372 U.S. 335, (1963) because it allowed criminal charges into a civil case therefore ignoring the 'Anglo-Saxon Law'?

8) Does the Court show additional prejudice or differential treatment by "downplaying" the evidence allowed into evidence over objection for "last minute discovery" and "bias" when it is obvious said evidence was presented to prejudice the judge, but when the "Defense" requested "Immediate and Complete" investigation by the proper authorities, then the Plaintiff claimed they were very old allegations?

9) If the law said "All Professionals" were to immediately report all allegations of a specific type, have not the Judge, the Plaintiff's Attorney, the SSA Federal Employee, and the Doctor... violated said law?

10) *** If a Court requests cooperation with "Father / Son Conferences" with a Doctor to help the son, is it not ignoring the 'Weeks' exclusionary rule, 1949 to allow anything into evidence from that cooperation?

11) If the Doctor, the preparer of said evidence, violated the ethics of his profession to prepare that evidence, should it have been allowed into evidence as said professional proved himself to be of questionable character by violating the ethics of his profession?

12) How is it ethical for the Judge to prompt the Plaintiff's Attorney for the meaning of the letter when the Doctor was not present in the Court?

13) So how could the Court even allow its self prejudiced by unethically allowing such into evidence and then denying the Defendant "Due Process of Law" and "Discovery" on the same?

14) Did not the Court deny "Discovery" on the last minute criminal allegations it allowed into evidence by denying "Defense's" request for DFACS investigation of the same, and did the Court not "Deny" "Due Process of Law" by that same denial?

15) *** Is it proper for an "Official Court Reporter" to say that a "vocal track" of the transcript was accidentally erased when in fact it would be proper to say the "vocal track" tape of the transcript was stolen off her desk because she failed to secure it before she left her desk?

16) *** Is a "Court Of Record" really a "Court Of Record" if it fails to secure and allows transcript material stolen?

17) *** Is it proper for an "Official Court Reporter" to certify a transcript "true and complete" without an exception when she knows the "vocal track" tape of the transcript was not completely incorporated into the written transcript

because the "vocal track" tape of the transcript was stolen off her desk?

18) *** Does a Federal Employee breach or compromise their integrity by tampering with or altering evidence to have another Federal Employee falsely arrested for the felony of abandonment? 'U.S. Const. Amend. IV'

19) *** Does a Federal Employee breach or compromise their integrity by "swearing false oath" themselves or through their attorney to have another Federal Employee falsely arrested for the felony of abandonment? 'U.S. Const. Amend. IV'

20) Does the Counsel, Meg L. Tysinger Hartin, who represented said Federal Employee, breach or compromise their integrity after being ordered to present the courts return in 30 days, but returns it in over 90 days with none of those major facts ordered included in the courts return?... No information about "No Advance Notification Required For "Weekend Child Visitation""... None of the information about Mr. Shapiro's "False Arrest" for the felony of "Abandonment" and in fact was this not the main focus of the trial that day?

21) Is this not in fact "barratry" if the "Law Firm" of the Counsel does not correct it and profits from future cases?

22) If this is not "barratry" is this not at least "presenting fraud upon the Court"?

23) Doesn't it seem foolish for former Counsel to have taken such action in light of how many witnesses there are who will never forget?

24) Is there a "statute of limitations" for such a purposeful improper action against a Pro Se Defendant by an "Officer of the Court"?

25) Has not this Counsel by "Unethical Behavior" been the "Enabler" by example for Ms. Shapiro to take any unethical actions she could as long as she was willing to lie or get others to "Lie or Manipulate" for her?

26) Has a Federal Employee "Suborned Perjury" by coaching a minor as to what to say to Judges at "In-Camera Sittings" in the Judge's chambers especially when the Defendant is not allowed to face his accuser or have a transcript or vocal recording of the "In-Camera Sitting" which appears to have prejudiced a Judge?

27) If men's "Good Ole Boy's" politics are the result of prejudice or differential treatment; then is there not a reverse prejudice or differential treatment caused by women's "Good Ole Girl's" politics... the cause of which could be: they could both identify as women; they could both identify as former Department of Justice Employees [(the Judge is a former Assistant United States Attorney in the Criminal and Civil Divisions of the United States Department of Justice in the Northern District of Georgia) and (Ms. Shapiro is a former employee of the Hoover Building in Washington, D.C. whose FBI employees are considered a part of the United States Department of Justice)]; they could both identify as Smyrna, Georgia Girls; or the Court felt that favoritism toward a SSA employee could be useful as SSA originally handled "Child Support Recovery"?

28) What else justifies denial of due process in this case with: denial of trial by jury; breach of contract more than $10,000; and questions of liberty of contract?

29) Read the transcripts... no one has been found in "Contempt of Court"; so how can the Federal Courts assume such?

30) *** Is it not ludicrous that the Judge who is an attorney and a former Assistant U.S. Attorney for the Northern District Of Georgia, has been assigned the best legal Defense team through the Georgia Attorney General's Office while the former Defendant who should have been assigned Counsel by 'Gideon v. Wainwright', 372 U.S. 335, (1963) still has no one but himself to depend on?

31) Based on all the above, is it not obvious: that a man, who is a resident of the United States first and a resident of the state of Georgia second, has been denied "Due Process Of Law" plus "Equal Protection Under The Law" let alone the "Rights of Citizenship" and that the Federal Courts all the way to the United States Supreme Court are such a man's only "Common Carrage" to Justice?

32) Is it now not obvious that Senior Judge G. Conley Ingram should have immediately "Dismissed As Frivolous" Civil Action Case Number 93-1-7827-34 Filed October 25, 1993 in the Superior Court Of Cobb County Georgia on March 18, 2004 instead of Judge S. Lark Ingram having "Dismissed Without Prejudice" on March 14, 2006 almost two years later which the Defense could have requested two years earlier if they wanted such? Does this by its self not show this case was a Frivolous Case?

33) Is it not proper that Mr. Shapiro asked the Court to "Dismiss as Frivolous" almost two years earlier before Senior Judge G. Conley Ingram March 18, 2004 as he handled the cases of Judge S. Lark Ingram who was called

away to handle an important case between the City of Marietta and Inserection represented by attorney Alan Begner?

34) In light of the fact that Judge P. Harris Hinds said, "This is just an agreement, if anything's ever said we're back," although it was stolen with the vocal transcript: Has an attorney, James W. Friedewald, an officer of the court, who is an agent of the former Plaintiff, irrevocably broke the agreement the next day by not delivering the telephone number of the Plaintiff to the Defendant, as promised to the Court, for use by family members (which would have been looked upon as good faith Consideration by the Defendant), and is the promise not documented by the next transcript before Judge S. Lark Ingram? And, as far as, "we're back," Did not Mr. Shapiro file "Demand For Jury Trial" File Number 9310782734 on August 29, 1996 at 10:07AM with the Cobb Superior Court Clerk's Office? "Was This Right Not Ignored By The Court?" In light of question 2 above, It was approximately ten years from the Defendant's filing of "Demand For Jury Trial" to the case being "Dismissed Without Prejudice," therefore is it not obvious that it was not the Court's intention to comply with a man's right to a speedy trial? Did not this "Right to a Speedy Trial" and "Demand For Jury Trial," take "Precedence" over the Judge saying, "Your case is "Dismissed Without Prejudice,"" and handing Mr. Shapiro a photocopy of a hand written "Dismissal Without Prejudice" (It is reprinted in the Appendix at App.11) filed March 14, 2006 with the Clerk Superior Court Cobb County Georgia earlier that day to Case Number 93-7827-34 although neither the Plaintiff, Plaintiff's Attorney, nor anyone claiming to represent the Plaintiff were present when the case was called in open court for the honorable Judge S. Lark Ingram to verbally order the same?

Was there proof of a complaining party? Is it not a total abuse of power considering the following?

1) Where identical actions are filed at different times, Plaintiff does not have a choice, but must proceed with the initially filed action. 'O.C.G.A. § 9-2-5(a)'
2) If actions are commenced at different times, plaintiff has no election, must proceed with the initially filed action, and such former suit "shall be a good defense to the latter." 'Code § 3-601'
3) The Statute providing that no suitor may prosecute two actions in courts at the same time for the same cause and against the same party is "mandatory." 'Code § 3-601'
4) O.C.G.A. § 9-2-60 Dismissal of Action where no order taken for five years. (b) Any action or other proceeding filed in any of the courts of this state in which no written order is taken for a period of five years "shall" automatically stand dismissed with costs to be taxed against the party plaintiff. 'O.C.G.A. § 9-2-60(b)'

35) The first attorney was Max D. Kaley who had a heart attack and stopped practicing adversarial law as far as the original paperwork which was then handled by G. Cleveland Payne III who said Ms. Shapiro was supposedly "Mis-Served" then Mr. Shapiro was served with the current case... Is it not apparent that Mr. Shapiro asked his second attorney, G. Cleveland Payne III, for the Right to "Trial by Jury"?

36) Mr. Shapiro asked G. Cleveland Payne III on the morning before going to Court, which is the hearing of the first transcript before Judge Hinds, Are we ready to start "Trial by Jury" today? G. Cleveland Payne III responded,

No this is just a hearing, to which Mr. Shapiro responded, Do I really need to be there? To which he responded, Yes.

37) From the conception of the "Divorce Settlement Agreement" where Ms. Shapiro said that they forgot to put Sandy, our family dog and a gift to both of us from our friend Paige, on the "Property Settlement List" and that I could have her... but then, after everything was signed said, the dog is mine unless specified in the "Property Settlement List"... Is it not obvious from conception of the "Divorce Settlement Agreement" and "Property Settlement List" that Ms. Shapiro, her Attorneys, and her representatives have been dealing in bad faith?

38) Is it not apparent that in denial of: Joint Custody / Joint Visitation to the majority of divorcing men in the State of Georgia, let alone visitation rights, as is the case here, accorded Mr. Shapiro in the "Divorce Settlement Agreement" (for which more than $10,000 "Consideration" was paid in "Good Faith" by "Quick Claim Deed" transfer of property which was my half of the Marital Home not including the Federal Gift Tax paid by Mr. Shapiro for the same transfer) that the Court has denied the right to Mr. Shapiro to teach and instill values in his son? And, does this not reflect on the 'Rights' and 'Silent Rights' accorded individuals by 'The Constitution of the United States of America' and the 'Bill of Rights' / 'Constitutional Amendments' of the same?

39) *** If a man is not capable of defending himself in a criminal case as per 'Gideon v. Wainwright', 372 U.S. 335, (1963), then is it appropriate for a Judge to ask a Pro Se Defendant if he wants to take Criminal Action against a Plaintiff without the Judge assigning Counsel, or should the Judge's obligation be to just do as the law prescribes when it

becomes obvious that the Plaintiff has committed a "Criminal Act"?

40) In regards to a contract for which more than $10,000 "Good Faith" "Consideration" was paid, is it not true that it cannot be changed without trial and then only for "Good Cause"?

41) Is not a Divorce Settlement Agreement, for which more than $10,000 "Good Faith" "Consideration" was paid, considered a contract?

42) Does it not then follow that: a "Divorce Settlement Agreement," which is a contract, cannot be changed without trial and "Good Cause" if more than $10,000 "Good Faith" "Consideration" was paid for the same?

43) If a Court accepts a "Divorce Settlement Agreement" are they not agreeing to enforce the same by the law?

44) Are there not Federal Guidelines in regards to contracts over $10,000 which non-federal courts are to follow?

45) *** Is it not obvious that it is the Court and its officers that "Aided and Abetted" in "Hostile Aggressive Parenting" (HAP), "Parental Alienation Syndrome" (PAS), and "Parentectomy" when in fact the Court's function is to enforce the contract called a "Divorce Settlement Agreement"?

> States interest in protecting children is not absolute; it must be balanced against parents' countervailing interest in being able to raise their children in environment free from government interference; in order to sustain its burden of showing compelling interest in terminating parental rights, state must show

> that consequences, in harm to children, of allowing parent-child relationship to continue are more severe than consequences of termination. 'Alsager v. District Court of Polk County, Iowa (Juvenile Division)', D.C. Iowa 1975, 406 F.Supp. 10, affirmed 545 F. 2d 1137.

46) Is it not obvious that a young man, who allowed himself to be coached by his mother as to what to say at "In-Camera Sittings" in Judge's Chambers on two different dates before two different Judges, has bore false witness not against his neighbor but against his father thereby dishonoring his father?

47) Is it not obvious that a young man who was kicked out of his mother's home the very last days of 2001, while his father was recovering from open heart surgery November 27, 2001, has caused his father to kick him out of the father's home for multiple times dishonoring his mother? And, Is it not obvious that a parent allowing a child to dishonor the other parent will be next in line to be dishonored by that child?

48) Is it not obvious that this young man ran right back to his mother? But, even more open to question, has this young man told his mother the truth about why he was kicked out of his father's home February 2002?

49) Does the Court realize why such a man may be within a few microns of disowning his son? Does this Court realize that "HAP", "PAS", and "Parentectomy" may in fact drive permanent wedges into what could have been normal loving parent / child relationships?

50) Is it not obvious to the father that the young man may not have told the complete reason to the mother and the doctor as to why the father allowed Sarah Dorris' grandson, Joshua, to take toys belonging to Nathan in exchange for Joshua's big red "Bouncy Ball" which Nathan had destroyed purposely?

51) *** What is at question here "is not" the divorce, domestic situation, or the same – nomatter how worded... What is at question is... "Equal Protection Under The Law"... "Due Process Of Law"... "Rights of Citizenship" (first as a U.S. Citizen then as a Citizen in the State where they reside)... "Justice for One or Justice For None"... What do you say as Justices of the United States Supreme Court?

52) *** Is it the right of man to have family unmolested by State especially when there is a contract in place for which more than $10,000 "Consideration" was given in "Good Faith" and which the Court approved therefore which the Court said it would enforce in accordance with Federal Laws, State Laws, and Federal / State Guidelines?

53) *** As to 'Gideon v. Wainwright', 372 U.S. 335, (1963)... should not the Defendant be entitled to the same Defense a Judge would get through the State Attorney General's Office?

54) *** Is it not astounding that the Judge wants "Attorney's Fees" for the State Attorney General's Office that represents her?... Should the State receive compensation for Denying a man's "Constitutional Rights"? Isn't it clear Mr. Shapiro didn't even get an attorney as per 'Gideon v. Wainwright', 372 U.S. 335, (1963)?

55) Has the Court purposely not given a man "Equal Protection Under The Law"; "Due Process of Law"; and the "Rights of Citizenship" to keep him tangled indefinitely under its thumb?

56) Are the Courts to be part of the shenanigans of liars, thieves, and charlatans by knowingly "Aiding and Abetting" them in Court with double-faced charisma by denying "Constitutional Rights"; "Due Process of Law"; "Equal Protection under the Law"; and "Discovery" to those entitled by law?

57) *** What of the order the Judge promised twice in the second transcript before Judge S. Lark Ingram, Is it termed a lie or an err? Is this proper from a Judge that publicly endorses that promises made should be promises kept? Does it not appear that the only two orders the Judge has signed are orders not to "Recuse for Cause," and is that ethical?

58) Is a man still entitled to the "Right of Redress"? 'U.S. Const. Amend. I'

59) What hidden political agenda has been behind the denial of justice, and Was this case only politically recalled because of an action before the State Ethics Commission if you consider 'O.C.G.A. § 9-2-60(b)' ?

60) *** Does it show that "Justice has not been served" in the end when a man can honestly ask such questions, and If the Court will not act on this "Petition For Writ Of Certiorari", will the Court request, demand, or command a "Federal Grand Jury" to look at the allegations?

REASONS FOR GRANTING THE WRIT

Consider carefully, the State Motto which is also on the State Seal is: "Wisdom, Justice and Moderation."

Read the transcripts... no one has been found in "Contempt of Court"; so how can the Federal Courts assume such?

'U.S. Const. Amend. VII' provides: In Suits at common law, where the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...

Listen to the Opinion of Marshall, C.J.:

> ...The Constitution of the United States declares that no State shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts... A contract is a compact between two or more parties, and is either executory or executed. An executory contract is one in which a party binds himself to do, or not to do, a particular thing... A contract executed, as well as one which is executory, contains obligations binding on the parties...
> 'Fletcher v. Peck', 6 Cranch 87, 3 L.Ed. 162, (1810).

Hear the Opinion of our forefathers:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the Pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any form of Government becomes destructive of these ends,... But when a long train of abuses... To prove this,... He has refused his Assent to Laws, the most

> wholesome and necessary for the Public good... He has obstructed the administration of Justice,... For depriving us in many cases, of the benefits of Trial by Jury... In every stage of these Oppressions We have Petitioned for Redress... Our repeated Petitions have been answered only by repeated injury... They too have been deaf to the voice of justice... And for the support of this Declaration... we mutually pledge to each other our Lives, our Fortunes and our sacred Honor...
>
> - 'The Declaration Of Independence'
> - In Congress, July 4, 1776

Some States, prior to 'The Constitution of the United States of America' , wrote provisions into their State Constitutions, partly because of the famous British trial of Sir Walter Raleigh, giving an accused in a criminal trial the right to be confronted with the witnesses against him.

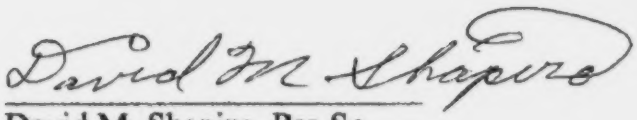
A man has been trifled with by a Court in violation of his Constitutional Rights... This is not an isolated incident... It appears to be the norm nowadays... Will the problem be addressed or shall the forefathers of this country continue to turn in their graves till it is?

Shall the State be allowed to defame or sully a good man's name by allowing frivolous cases against him and the denial of his "Constitutional Rights" just because he is an indigent Pro Se Defendant? Is this not a grave injustice?

CONCLUSION

This Petition for a Writ of Certiorari should be GRANTED.

Respectfully Submitted,



David M. Shapiro, Pro Se
Counsel of Record
2539 Sandtown Road SW
Marietta, GA 30060-6659
1-770-319-5701

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UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 06-10834

District Court Docket No.
05-02741-CV-ODE-1

DAVID M. SHAPIRO,
Plaintiff-Appellant,

Versus

S. LARK INGRAM, Judge,
Superior Court of Cobb County,
Defendant-Appellee.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
Oct 25, 2006
THOMAS K. KAHN
CLERK

Appeal from the United States District Court
For the Northern District of Georgia

JUDGMENT

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: October 25, 2006
For the Court: Thomas K. Kahn, Clerk
By: Jackson, Jarvis

ISSUED AS MANDATE
JAN 03 2007
U.S. COURT OF APPEALS
ATLANTA, GA.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 06-10834-EE

DAVID M. SHAPIRO,

Plaintiff-Appellant,

verses

S. LARK INGRAM, Judge,
Superior Court of Cobb County,

Defendant-Appellee.

On Appeal from the United States District Court for the
Northern District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION FOR REHEARING EN BANC

Before: CARNES, PRYOR and FAY, Circuit Judges.

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure), the Petition(s) for Rehearing En Banc are DENIED.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
DEC 22 2006
THOMAS K. KAHN
CLERK

ENTERED FOR THE COURT:

/s/ Fay
UNITED STATES CIRCUIT JUDGE

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 06-10834
Non-Argument Calendar

D.C. Docket No. 05-02741-CV-ODE-1

DAVID M. SHAPIRO,

Plaintiff-Appellant,

Versus

S. LARK INGRAM, Judge,
Superior Court of Cobb County

Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Georgia

(October 25, 2006)

Before CARNES, PRYOR and FAY, Circuit Judges.

PER CURIAM:

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
OCTOBER 25, 2006
THOMAS K. KAHN
CLERK]

David M. Shapiro, proceeding pro se, appeals the dismissal of his "appeal," which the district court construed as a 42 U.S.C. § 1983 civil complaint, for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). Liberally construing his appellate briefs, Shapiro challenges this dismissal. For the reason set forth more fully bellow, we affirm.

Shapiro's "appeal" was apparently based on a 1993 Georgia state civil court civil contempt proceeding. The district court construed Shapiro's pro se pleading as a challenge to Judge S. Lark Ingram's failure to recuse herself from an action to which Shapiro was party. The district court further stated that it appeared that Shapiro was found in contempt and was displeased with that ruling. The district court found it lacked jurisdiction, under the Rooker-Feldman[1] doctrine, over Shapiro's challenge to his contempt finding and Judge Ingram's denial of Shapiro's motions for her recusal. In addition, the district court found that Judge Ingram was absolutely immune from damages.

We review the district court's dismissal, under 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a claim de novo. Mitchell v. Farcass, 112 F.3d 1483, 1490 (11th Cir. 1997). We also review a grant of judicial immunity de

[1]Rooker v. Fidelity Trust Co., 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983).

novo. Smith v. Shook, 237 F.3d 1322, 1325 (11th Cir. 2001). We "may affirm the district court where the judgement entered is correct on any legal ground regardless of the

grounds addressed, adopted or rejected by the district court." Bonanni Ship Supply, Inc. v. United States, 959 F.2d 1558, 1561 (11th Cir. 1992).

Upon review of Shapiro's pleadings, we agree that Shapiro's main complaint was Judge Ingram's denial of two motions he filed seeking her recusal. We are uncertain whether Shapiro alleged that he was wrongfully found in contempt, or whether he alleged that the court violated his rights by failing to rule on the contempt charge. Furthermore, based on the pleadings before the district court at the time of its dismissal, it appears, although it is by no means clear, that state court proceedings were still ongoing. Regardless of the status of the state court proceedings at the time of the district court's dismissal, the court's dismissal is due to be affirmed; even if the district court applied the Rooker-Feldman doctrine prematurely, comity concerns warrant abstention under Younger[2] as to injunctive relief, and Judge Ingram is entitled to absolute judicial immunity from damages. See The News-Journal Corp. v. Foxman, 939 F.2d 1499, 1510 n.13(11th Cir. 1991) (recognizing that incomplete state court review made federal suit premature under Younger, but, once state court review was final, federal review would have

[2]Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27L.Ed.2d 669 (1971).

been barred by Rooker-Feldman).

A. Younger

Although abstention is the exception and not the rule, "[f]ederal courts should abstain from exercising their

jurisdiction if doing so would 'disregard the comity between the States and the National Government. '" Wexler v. Lepore, 385 F.3d 1336, 1339 (11th Cir 2004) (citation omitted). For abstention to be triggered, (1) the federal injunction must "create an 'undue interference with state proceedings,'" and (2) "the state proceedings at issue must involve 'certain orders that are uniquely in furtherance of the state court's ability to perform their judicial functions... it has never been suggested that Younger requires abstention in deference to a state judicial proceeding reviewing legislative or executive action.'" Id. (citations omitted). "We interpret the Younger doctrine as preventing federal courts from being the grand overseers of state courts and court-like administration." Id. at 1341. Younger abstention applies to civil proceedings. Id. at 1339. The Supreme Court has recognized that a State's interest in its contempt process is of sufficient importance to warrant the application of Younger and that a federal court's interference with this process constitutes undue interference with a state's legitimate activities. Juidice v. Vail, 430 U.S. 327, 335-36, 97 S.Ct. 1211, 1217-18, 51 L.Ed.2d 376 (1977).

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Shapiro essentially sought to overturn Judge Ingram's orders. This would have required the district court to direct Judge Ingram to reverse her prior rulings, effectively telling the state court how to run its contempt proceeding. Thus, any injunctive relief granted in this case would unduly interfere with state court proceedings. See id. at 335-36, 97 S.Ct. at 1217-18. This interference would relate to one of Judge Ingram's judicial functions – whether or not to recuse herself. To the extent that Shapiro challenged other decisions related to a finding of contempt, administration of the case, and an evidentiary ruling, those also implicate Judge

Ingram's judicial functions. Because of this direct interference with the judicial functions of a state court, comity would have warranted the district court's abstention as to any pending matters. See Wexler, 385 F.3d at 1339, 1341.

B. Immunity

> Judges are entitled to absolute judicial immunity from damages for those acts taken while they are acting in their judicial capacity unless they acted in the clear absence of all jurisdiction. This immunity applies even when the judge's acts are in error, malicious, or were in excess of his or her jurisdiction. Whether a judge's actions were made while acting in his judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity.

Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005) (citations and quotation marks omitted).

5

To the extent that Shapiro sought damages, Judge Ingram is entitled to judicial immunity. Shapiro complains about rulings that Judge Ingram made during a contempt proceeding, Georgia Superior Courts have jurisdiction to punish for contempt, see O.C.G.A. § 15-1-4, and the pleadings neither allege nor provide grounds to suggest that

Judge Ingram acted in clear absence of all jurisdiction. See Sibley, 437 F.3d at 1070.

C. Rooker-Feldman

The Rooker-Feldman doctrine provides that federal courts, other than the Supreme Court, lack jurisdiction to review the final judgements of state courts. Amos v. Glynn County Bd. Of Tax Assessors, 347 F.3d 1249, 1265 n.11 (11th Cir. 2003). Rooker-Feldman applies when the following four criteria are met: (1) the party in federal court is the same as in the state court; (2) the state court ruling was a final or conclusive judgement on the merits; (3) the plaintiff in federal court had a reasonable opportunity to raise his federal claims in state court proceeding; and (4) the issue before the federal court was either adjudicated by the state court or inextricably intertwined with the state court's judgement. Id. "[A] party's ability to raise claim on appeal constitute[s] a reasonable opportunity to raise the claim." Blue Cross & Blue Shield of Maryland, Inc. v. Weiner, 868 F.2d 1550, 1555 (11th Cir 1989) (citing Wood v. Orange County, 715 F.2d 1543, 1548 (11th Cir. 1983)).

"A federal claim is inextricably intertwined with a state court judgement 'if the federal claim succeeds only to the extent that the state court wrongly decided issues before it.'" Siegel v. LePore, 234 F.3d 1163, 1172 (11th Cir. 2000) (en banc) (quoting Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 25, 107 S.Ct. 1519, 1533, 95 L.Ed.2d 1 (1987) (Marshall, J., concurring)). Assuming that there was a final judgement on the merits at the time of the dismissal, the district court correctly dismissed the case based on Rooker-Feldman. See Goodman ex rel. Goodman v. Sipos, 259 F.3d 1327, 1333

(11th Cir. 2001) (noting that Rooker-Feldman bars claims that essentially seek to challenge a state court judgement).

Judge Ingram has absolute immunity from damages. Either Younger abstention principles or the Rooker-Feldman doctrine preclude Shapiro's attempt to challenge Judge's Ingram's rulings in the district court. In light of the foregoing, the district court is

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

	: Filed In Clerk's Office
	: U.S.D.C. -Atlanta
DAVID M. SHAPIRO,	: OCT 21 2005
Plaintiff,	: Luther D. Thomas, clerk
v.	: By: Deputy Clerk
S. LARK INGRAM, JUDGE,:	
SUPERIOR COURT OF	:Civil Action No.1:05-MI-0296
COBB COUNTY	: 1:05-CV2741-ODE
Defendant.	:

ORDER

Plaintiff seeks to file this complaint [Doc.2] without prepayment of fees or security therefor pursuant to 28 U.S.C. § 1915(a). After consideration by the court or Plaintiff's Affidavit in Support of Request to Proceed In Forma Pauperis [Doc. 1], Plaintiff's request to proceed in forma pauperis is hereby GRANTED pursuant to 28 U.S.C. § 1915(a). The Clerk is directed to submit this action to the District Court for review of Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

IT IS SO ORDERED this 18th day of October, 2005.

/s/ Susan S. Cole
SUSAN S. COLE
United States Magistrate Judge

App.11

In The Superior Court of Cobb County
State of Georgia

Lawanna G. Shapiro : 93-1-7827-34
vs. :
David M. Shapiro : Dismissal Without Prejudice

Now Comes plaintiff & hereby dismisses the above Style action without prejudice.

This 14th day of March, 2006.

/s/ James W. Friedewald
JAMES W. FRIEDEWALD
Attorney for Plaintiff
State Bar # 277408
272 Washington Ave
Marietta, Ga. 30060
770-424-7884

FILED IN COURT
THIS Mar. 14 2006
AT_____ M
JAY C. STEPHENSON
CLERK SUPERIOR COURT
COBB COUNTY, GEORGIA

Page 1

/s/ Jay C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb County